

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CURT KASS,

Plaintiff

CASE NO. 3:07-CV-00095-LRH-VPC

vs.

THE STATE OF NEVADA; MINERAL
COUNTY COMMISSIONERS EDWARD
FOWLER; Chair (Past Member); RICHARD
BRYANT, (past Chair); member; NANCY
BLACK (past Vice Chair),

Defendants.

DEFENDANTS' EXPEDITED MOTION
FOR EXTENSION OF TIME WITHIN
WHICH TO REPLY TO PLAINTIFF'S
OPPOSITION TO DEFENDANTS MOTION
TO DISMISS AND RESPONSE
SUBMITTING STATEMENT OF FACTS
AND POINTS AND AUTHORITIES AND
EVIDENCE FOR COURTS MOTION FOR
SUMMARY JUDGMENT.; ORDER
EXPEDITED MATTER
(FIRST REQUEST)

COMES NOW Defendants MINERAL COUNTY COMMISSIONERS, EDWARD
FOWLER, RICHARD BRYANT and NANCY BLACK, by and through their attorneys,
Thorndal, Armstrong, Delk, Balkenbush & Eisinger, and hereby moves this Court pursuant to LR
7-4, to Strike Plaintiff's Opposition to Defendant's Motion to Dismiss or in the alternative hereby
moves this Court pursuant to LR 6-1, to issue an **expedited** order granting Defendants an
enlargement of time to reply to Plaintiff's opposition, filed on June 30, 2008, so that Defendants'
reply will be due on or before July 25, 2008.

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1 This motion is based the Memorandum of Points and Authorities attached hereto,
2 Affidavit of Brent Harsh filed herewith, and all pleadings and papers on file herein.

3 DATED this 9th day of July, 2008

4 THORNDAL, ARMSTRONG, DELK,
5 BALKENBUSH & EISINGER

6 By: 

Brent T. Kolvet, Esq.

State Bar No. 1597

Brent H. Harsh, Esq.

State Bar No. 8814

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Reno, Nevada 89509

Attorneys for Defendants

Mineral County Commissioners, Edward

Fowler, Richard Bryant, Nancy Black

MEMORANDUM OF POINTS AND AUTHORITIES

I. Introduction

On February 28, 2007, the Plaintiff filed a complaint against the State of Nevada, the Mineral County Commissioners, Edward Fowler, Richard Bryant and Nancy Black. On March 9, 2007, the Plaintiff filed an Amended Complaint.

On May 22, 2007, the Defendants filed a Motion for a More Definite Statement, which was opposed by the Plaintiff on June 11, 2007. On June 14, 2007, the Defendant's filed a reply. On February 19, 2008, the honorable Valerie P. Cooke, granted the Defendants' Motion for More Definite Statement and specifically ordered that the Plaintiff's "second amended complaint is due **Thursday, March 13, 2008.**" On March 18, 2008, five days past the Court's deadline, the Plaintiff filed the Plaintiff's Second Amended Complaint for Damages for Civil Rights Action.

On April 3, 2008, Defendants' filed a Motion to Dismiss and on April 21, 2008, Plaintiff filed his Opposition. On April 28, 2008, the defendants filed their reply to Plaintiff's opposition. Then on April 29, 2008, Plaintiff filed a request for an extension of time to Respond to Defendants' April 3, 2008, Motion to Dismiss. On May 16, 2008, Plaintiff filed a second motion to extend time and on May 30, 2008, filed a supplement. By Order of this court on June 4, 2008, Plaintiff was granted an extension to respond to Defendants' motion to dismiss as a result of Plaintiff's health problems, until June 30, 2008.

On June 30, 2008, Plaintiff filed his additional Opposition to Defendants' Motion to Dismiss with voluminous attached exhibits. Defendants now file this Motion to Strike Plaintiff's opposition under LR 7-4 or in the alternative request an enlargement of time within which to respond to Plaintiff's opposition under LR 6-1. This is Defendants' First (1st) request for such an extension. Eventhough the Opposition was filed on June 30, 2008, the Defendants did not receive the e-mail from the court until July 2, 2008, See Exhibit 1.

II. Law and Argument

Defendants' request for an extension of time within which to file their Reply to Plaintiff's Opposition should be granted. While, Defendant's Recognize that the court has held that no further reply must be taken by the Defendants', Plaintiff's Opposition contains numerous

1 exhibits, including tapes of County Minutes and various other documents which are newly
2 received by Defendants. This newly aquired material and lengthy opposition filed by Plaintiff
3 requires Defedants to file a Reply to these newly acquired documents. As this court is aware,
4 discovery in this matter has not yet opened and it is necessary for Defendants' to have additional
5 time to sift through this newly added material and Defendants' extensive points and authorities
6 and reply to any new materials therein.

7 While Plaintiff submitted this Motion on June 30, 2008, the Defendants did not receive
8 receipt of such filing by the court until July 2, 2008. See Exhibit 1. Additionally, due to the
9 extensive documents attached by Plaintiff additional time is needed to sift through these
10 additional documents in order to adequately prepare such a reply. At this time Mr. Harsh's
11 Calendar is filled with various depositions and an upcoming arbitration making it impossible to
12 respond to such a lengthy opposition with the exorbitant amount of attached exhibits in the
13 amount of time given for such a reply. See Exhibit 2.

14 It must also be pointed out that this is Defendants first request for an extension and the
15 Plaintiff can not be prejudiced by the granting of such extension when he received a month long
16 extension to oppose Defendants' motion to dismiss. As such, Defendants respectfully request an
17 extension of two additional weeks to Friday July 25, 2008, to reply to Plaintiff's Opposition.

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3 **III. Conclusion**

4 Wherefore Defendants' MINERAL COUNTY COMMISSIONERS, EDWARD
5 FOWLER, RICHARD BRYANT and NANCY BLACK respectfully request that this Court
6 strike Plaintiff's opposition or in the alternative that Defendants' be provided an enlargement of
7 time to file such reply to Plaintiff's opposition, on or before July 25, 2008.

8 Respectfully submitted this 9th day of July, 2008.

9 THORNDAL, ARMSTRONG, DELK,
10 BALKENBUSH & EISINGER

11 By: 

12 Brent H. Harsh, Esq.
13 State Bar No. 8814
14 6590 S. McCarran Blvd., Suite B
15 Reno, Nevada 89509
16 Attorneys for Defendants
17 Mineral County Commissioners, Edward
18 Fowler, Richard Bryant, Nancy Black

19 **ORDER**

20 IT IS SO ORDERED that Defendants will have until on or before Friday, July 25, 2008,
21 to file and serve their Reply to Plaintiff's Opposition to Defendants' Motion to Dismiss.

22 DATED this 9th day of July, 2008.

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24 LARRY R. HICKS
25 UNITED STATES DISTRICT JUDGE
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